

(Tony Trenkle); Office of Financial Management (Deborah Taylor); Office of General Counsel (Janice Hoffman); Office of Legislation; Office of Research, Development and Information (Tim Love).

## THE WHITE HOUSE

Nancy-Ann DeParle, Mike Hash.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Senators vote tonight from their desks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask consent that we start the vote 5 minutes early.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. DODD). Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 175, H.R. 3590.

Harry Reid, Tom Harkin, Jack Reed, Edward E. Kaufman, Jeff Merkley, Roland W. Burris, Daniel K. Akaka, Patty Murray, Richard J. Durbin, Sherrod Brown, Michael F. Bennet, Jeanne Shaheen, Sheldon Whitehouse, Bill Nelson, Mark Udall, Benjamin L. Cardin, Christopher J. Dodd, Patty Murray.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3590, the Service Members Home Ownership Tax Act of 2009, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Ohio (Mr. VOINOVICH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 353 Leg.]

## YEAS—60

Akaka	Cardin	Hagan
Baucus	Carper	Harkin
Bayh	Casey	Inouye
Begich	Conrad	Johnson
Bennet	Dodd	Kaufman
Bingaman	Dorgan	Kerry
Boxer	Durbin	Kirk
Brown	Feingold	Klobuchar
Burris	Feinstein	Kohl
Byrd	Franken	Landrieu
Cantwell	Gillibrand	Lautenberg

Leahy	Nelson (NE)	Specter
Levin	Nelson (FL)	Stabenow
Lieberman	Pryor	Tester
Lincoln	Reed	Udall (CO)
McCaskill	Reid	Udall (NM)
Menendez	Rockefeller	Warner
Merkley	Sanders	Webb
Mikulski	Schumer	Whitehouse
Murray	Shaheen	Wyden

## NAYS—39

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

## NOT VOTING—1

Voinovich

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 39. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

(Disturbance in the galleries.)

The PRESIDING OFFICER. Expressions of approval are not allowed.

Under the previous order, all postcloture time is yielded back, and the motion is agreed to.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to modify the first-time home buyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

## AMENDMENT NO. 2786

Mr. REID. Mr. President, I call up my amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment by title.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN, proposes an amendment numbered 2786.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Thursday, November 19, 2009, under "Text of Amendments.")

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HEALTH CARE REFORM

Mr. BROWN. Mr. President, we just did one of the most important things I have ever done in my professional life, and I join my colleagues in noting that. We have taken a major step in doing several things today—in providing health insurance to tens of millions of Americans who don't have insurance, in building consumer protections around 80 percent of Americans who are insured so people will no longer be disqualified from preexisting conditions, no more discrimination based on gender.

As the Presiding Officer knows from his work in Minnesota, women pay significantly higher health insurance premiums than men on average. Those days are behind us. There will no longer be lifetime caps so if somebody gets sick and their cost of treatment—from physician care, from hospital visits—so high, the insurance company chooses to do what they call rescission, cutting their insurance coverage off, those days are behind us, once we move forward with this bill.

Tonight is the first step. Even though none of my Republican colleagues, not 1 of the 39 who voted, not 1 of them wanted to proceed with the debate, clearly the country wanted us to move forward. Now everybody has a fair shot. If they don't like the public option, they can try to get rid of it. If they don't like the way we are paying for it, they can try to change it. If they don't like what we have done with biologics, those opportunities are in front of us now for the next 2 or 3 weeks.

I have come to the Senate floor leading up to this debate, since July, sharing letters from people in my State who have a few things in common. Almost every single letter I get comes from somebody who a year or two ago was pretty satisfied with their health insurance. Then maybe they had a baby with a preexisting condition or they lost their insurance or they owned a small business and 1 person out of 50 employees got cancer and their premiums spiked so high, the insurance was either terminated by the company or it was so expensive they couldn't afford it. Someone got so sick and the costs were so high, the insurance cut them off. In almost every one of these letters, people were generally satisfied with their insurance.

I get letters from a lot of people in their early sixties, people from Springfield to Troy to Zaynesville. These people in their early sixties who have lost

their insurance, their job, or they had a preexisting condition, can't wait to be 65. It is a pretty bad commentary on how we do this when a 62-year-old is so anxious to be 65 so that they have insurance. Then they have the security and the stability of Medicare. Why shouldn't we instead give them the security and the stability of the public option, if that is what they choose, if they are uninsured and in their sixties or forties or any other age.

The last thing I have found in these letters is an overwhelming sentiment in support of the public option. The public option does several things. The public option is only an option. If you want CIGNA or WellPoint or Medical Mutual, a not-for-profit company in Ohio, you can choose that or the public option. The public option, even with these reforms, will help keep the insurance companies honest. Nobody gets eliminated from Medicare because of a preexisting condition. Nobody will lose their health insurance with the public option because of a preexisting condition. Too many times, they have, if they had CIGNA or if they had WellPoint or Blue Cross or Aetna. That is the second reason the public option is so important.

Third, the public option is going to keep costs in check because in southwest Ohio, in Cincinnati, and the three surrounding counties, two insurance companies have 85 percent of the insurance policies.

What does that mean? It means lower quality and higher cost. Put the public option in as a competitor, people in Lebanon and Batavia and Middletown and Butler and Cincinnati don't have to choose the public option, but its very existence will discipline the market. It is good, old-fashioned American competition, and it will mean that the private insurance companies will act better. They will provide better quality at a lower price. That is the whole point of the public option.

Let me share a couple letters this evening. Debbie from Clark County:

In May, I suffered a serious ankle injury. After an ER visit and then a consultation by a specialist, I was told not to bear weight on my foot and that I needed major surgery.

Up until June 1, I was covered by my husband's employer-based plan. His company then changed its insurance policy and stated that any spouse of an employee who worked full time, and had access to insurance, would no longer be covered.

At the time, I was still employed and had access to an employer plan. But shortly after my injury on May 29, I couldn't work, and asked that I be put on my husband's plan.

The insurer initially declined, but after weeks of fighting, they agreed to put me back on his plan, but only during open enrollment in March 2010.

My surgery is critical and needs to be done immediately; I have to wait until March 2010—nearly ten months after my injury.

I have researched private insurance, but we can't afford it. Nor can we afford the surgery without insurance.

We have worked hard and raised our four children to believe that nothing worth having comes easy. But now, I feel like I'm somehow letting my family down.

How can this happen when living in the United States of America?

Debbie is like so many Ohioans and so many Americans who have worked hard, paid their taxes, played by the rules, and something happened with their insurance. They lost their insurance. She was victimized by a set of circumstances that simply shouldn't happen. Under our bill this will not happen. They will not be allowed to take people's insurance away. People will not fall through the cracks. She will be able to get insurance by buying on the insurance exchange. If she chooses to, she could choose the public option.

Robert from Lake County:

In 1986 my wife was terminally ill with cancer and several other illnesses. When I switched jobs and looked for new insurance, we were denied because of her pre-existing condition.

In 2001, when I was 58, I lost my job. When COBRA ran out, I was denied insurance based on my pre-existing conditions of diabetes and heart disease.

I managed to limp through until I turned 65 and became eligible for Medicare.

I'm sure the fear and anxiety I suffered over health insurance hasn't been at all beneficial to my overall health.

We don't think about this in this body. Most of the people we hang around with have insurance. Most of the people we hang around with as Senators don't have a lot of these problems. We certainly have sick relatives and friends who have disabilities and illnesses. But rarely do they have to worry so much before they turn 65 and can get the stability of Medicare, the same stability we want to give people in the public option. When you think about that, think of all the people who have insurance and they go to the doctor or hospital and get a medical treatment. They then apply to their insurance company to get their benefits paid for their expenses. Thirty percent of the time insurance companies deny claims—30 percent of the time, often on appeal to the insurance company, though they will pay the claim on the second round.

Think about putting people through that. You are sick, you have a \$14,000 medical bill. You are making \$35,000 a year. You can't afford anything close to that. Your insurance company turns you down. You go back and fight with them, you argue with them, or your spouse argues with them. Where does that leave you?

In difficult times with their health, the anxiety makes it even worse. That is why we need to change this model of the private insurance companies finding all kinds of reasons to not insure people with preexisting conditions, to discriminate because of gender and then to refuse to pay claims. That is what the public option will do, inject competition so they would not be able to do that.

The last letter I wish to share is from Shelly from Coshocton County in sort of eastern-southeastern Ohio:

I have no health insurance coverage for myself or my son. My husband is disabled

and receives Social Security Disability and Medicare.

My son was born with a congenital heart defect and has already had one open heart surgery. Along with my pre-existing condition, neither of us can afford private coverage. Pre-existing conditions should be illegal for insurance companies to use to delay health care for Americans.

A public option would protect Shelly. She asks for a public option. She says: A public option would protect me from preexisting condition exclusions. That is exactly right. The insurance industry model—you think about how it works.

They first hire a bunch of bureaucrats to keep people from buying insurance if they are sick. So they deny people the ability to buy insurance because they might be expensive, on the one hand. And then, after you do have coverage, and you get sick and you submit a claim, they hire a bunch of bureaucrats on that end to stop you from getting payment, to stop you from getting reimbursed for your claim.

That is why the CEO of Aetna was able to make \$24 million last year. That is why insurance companies have seen profits increase 400 percent in the last 7 years. When you have a business model where you hire a bunch of bureaucrats to keep people who are sick from buying your insurance, and on the other end you hire a bunch of bureaucrats to deny payment of their claims, those are companies that are going to make a lot of money.

That is a pretty good business model. It works for them. The CEOs of the top 10 insurance companies in the country average \$11 million in pay. It works for them. It works for their shareholders. It works for their profitability. It is not working so well for Shelly. It is not working so well for Debbie from Springfield. It is not working so well for Robert from Wickliffe or Willowick, in that part of Ohio.

So it is clear we have our work cut out for us tonight. It is a major step. I am sorry none of my Republican colleagues wanted to even debate this, wanted to even move forward and put this bill on the floor. But I am confident as we process these amendments, the dozens and dozens of amendments—I know the Presiding Officer has a great amendment on making sure the drug companies that advertise do not get subsidized by taxpayers through a tax deduction, which they do now. There are a lot of amendments that are coming to this floor that will make this bill better.

There are some amendments that will not make it better. But everybody is going to have a free shot—all 100 of us. That is the way this system should work. That is why open debate is good, even though some of my colleagues did not want us to do that. But that is why, in the next month or two, we are going to get a bill through the Senate, through the conference committee, to the President's desk, and it is going to change Americans' lives.

Those who have insurance, who are satisfied with it, will be able to keep their insurance with consumer protections. It will help small businesses so they can insure their employees. And it will help those people who do not have insurance get some help and get some insurance. The public option will improve the system all up and down in other ways.

Mr. President, I yield the floor.

#### NSWG TRAVEL

Mr. KYL. Mr. President, I rise today in my capacity as the cochairman of the Senate's National Security Working Group. It is in that capacity I recently traveled on a CODEL with the senior Senator from California.

Pursuant to the requirements of the current Memorandum of Understanding on the Administrative Procedures for the U.S. Senate National Security Working Group, specifically paragraph 6, Senator FEINSTEIN and I have filed in the Office of Senate Security a classified memorandum available to the members of the working group and their designated staffer.

As my colleagues are aware, the NSWG, which is the successor of the Senate's Arms Control Observer Group, was created by the Senate to aid administrations that choose to negotiate arms control treaties. In view of the 67-vote threshold to ratify a treaty, and given the complexity and importance of the subject matter at the heart of arms control treaties, as well as the Constitution's mandate that the U.S. Senate has a role of advice and consent in treaty making, the NSWG exists to provide a forum for an expert group of Senators to have up-to-date information on ongoing treaty negotiations, and to provide the Administration with consultation from the Senate.

This consultative role is important, because the Constitution entrusts the Senate with the responsibility to provide its advice along with, perhaps, its consent to a treaty. This means administrations are supposed to listen to the advice of Senators if they expect to earn the Senate's consent.

The U.S. negotiating team is lead by Assistant Secretary of State Rose Gottemoeller, a highly capable administration official and a gracious host. I thank her for her time and hospitality, as well as for her service.

I urge my colleagues in the NSWG to take the time to study the classified memorandum Senator FEINSTEIN and I have drafted. The issues covered in our memorandum are significant, and, in some cases worrisome. I won't go into detail here—the memorandum is classified and for good reason.

That said, I will ask to have printed four recent articles on the START follow-on treaty negotiations to the RECORD. These articles highlight issues that every Senator should consider.

As my colleagues know, the 1991 START Agreement expires 2 weeks from today. I urge my colleagues to

consider what will happen on December 6, the day after the expiration of that agreement. For the first time in 15 years, an extensive set of verification, notification, elimination and other confidence building measures will expire.

The U.S. will lose a significant source of information that has allowed it to have confidence in its ability to understand Russian strategic nuclear forces; likewise, the Russian Federation will lose information about U.S. nuclear forces, almost all of which are strategic, unlike the Russian forces, which place tremendous emphasis on tactical nuclear forces not covered by the 1991 Agreement or its successor.

Yet, no one appears to know what will come next. According to the reports I will add to the RECORD, there is no plan for what provisions of the 1991 Agreement will be maintained after the 1991 Agreement expires on December 5.

The question of what happens after the 1991 Agreement expires is important. The Russian Federation is already telling us they intend to deploy a new road mobile missile, one which, for the first time, will have multiple independent reentry vehicles. Open source reports indicate this missile will constitute 80 percent of Russian ICBM forces by 2016. This is a significant deployment. Moreover, it confirms that Russia, unlike the U.S., is modernizing its nuclear forces.

How will we monitor this highly destabilizing weapon, the RS-24? According to the article I introduced from the Global Security Newswire by Elaine Grossman, we won't have the entry and exit portals at Votkinsk.

That we don't have answers to these questions is alarming, more so because our negotiators must have known for months that a "bridge" would be necessary. Why do I say this? Simple: the Moscow Treaty took the Senate 9 months—287 days—to ratify from the date of its signature. And that was a very limited treaty—it was about two to three pages long.

The START agreement of 1991 took 429 days to ratify on October 1, 1992, after it was submitted to the Senate on July 31, 1991. And by everything we have seen in the press and been briefed on in the National Security Working Group, this new treaty will be almost as complicated, and will include highly significant nuclear force reductions, that will take time for Senators to consider. In fact, the Senate has not had even one hearing on the START process yet.

The administration must have understood this. Yet it spent the first half of the year negotiating a joint understanding that would allow it to show progress towards the President's goal of world without nuclear weapons. According to press reports, only now have the negotiators begun looking at the question of verification.

I was shocked that there had been virtually no talk—and I know this

from my conversations with members of both the Russian and U.S. delegations in Geneva—of what happens after December 5 and prior to the possible entry into force of the follow-on agreement when and if it is signed by the two executives. Mr. President, I don't say this lightly, but, this borders on malpractice.

I have said repeatedly that I hope to be able to support the treaty being negotiated now. I have kept an open mind throughout this process. Yet as I learn more about what has been negotiated thus far, and the general process this treaty negotiation has taken, I grow more concerned.

The paramount object of this treaty should have been to extend the verification measure of the 1991 Agreement. But, it appears that the administration's object was to lock in significant nuclear weapons cuts; they achieved that with the July joint understanding. Only recently has verification gotten the attention it deserved all along.

And, now, the Russians may think they have the advantage. That may be why they returned a counter offer a little over a week ago that the U.S. was "very disappointed about" in the words of Under Secretary of State Ellen Tauscher. We have entered an endgame where the Russians may feel that the U.S. wants the START follow-on agreement more than they do; even though Russia needs this treaty, needs to lock the U.S. into strategic delivery vehicle reductions as Dr. Keith Payne explained in his testimony before the House Foreign Affairs Committee, only the House so far has held a hearing on START.

I believe the U.S. would have been very well served with a simple 5 year extension of the 1991 Agreement, as the treaty allowed. But, now the President is preparing to head to Oslo to collect his Nobel Peace Prize, one that was apparently based on the President's endorsement of the Global Zero vision. The Russians apparently perceive that the President would be quite embarrassed if he had to pick up his Prize having failed to get a START follow-on completed. In the interest of the United States, I implore the administration not to negotiate against an artificial deadline. There are means to lock in verification and associated activities from the 1991 Agreement after it expires in 2 weeks.

Mr. President, I ask unanimous consent that the four articles to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### NEW RUSSIAN-U.S. ARMS REDUCTION TREATY HAMPERED BY DIFFERENCES

(By Ilya Kramnik)

MOSCOW.—Russia and the United States cannot agree on a new strategic arms reduction treaty to replace the START-1, which will expire on December 5, 2009.

The problems concern control of mobile missile systems, cuts in delivery vehicles, and a connection between the new treaty and